

How Postwar German Authorities Orchestrated Witness Statements in Nazi Crime Cases

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One of the most important standards of justice when interviewing or interrogating witnesses in a criminal case is not to ask leading questions and not to feed the witness with information about the case before he/she is interviewed/interrogated. Either technique can and will lead to witnesses adjusting their statements to what they think is expected. They may no longer report what they knew before the interview started, but rather a hopelessly polluted mixture of their own recollection with material they were just prompted with. Confronting a witness with already known or assumed information about the case should therefore be done only after the witness has made an initial deposition about what he knows all by himself. The confrontation with additional, contradicting information, existing or otherwise, can then serve to expose incorrect or deliberately false statements (lies), hence serves to gauge a witness's reliability and trustworthiness, or it can expose errors in the information the investigator had assumed to be accurate. Giving a witness additional confirming information, however, merely leads to a type of confirmation bias, where a witness tends to incorporate this information as his own in order to support his own recollections, leading the investigator to erroneously believe that the information he fed the witness is now being confirmed by the latter. This can therefore be of no use to a judge or jury, but of great use to an "investigator" intent on "proving" something that may not be so. It is, of course, especially effective with "friendly" or motivated witnesses, genuine and otherwise.

Now let's turn to criminal cases conducted in Germany against defendants who were suspected of having committed violent crimes during the Nazi era. Many revisionists have criticized the conditions of these legal proceedings.

One of the first was the German investigative journalist Regina Dahl, wife of the famous German Luftwaffe officer Walther Dahl ("Rammdahl").¹ Mrs. Dahl worked for the German nationalist newspaper *National-Zeitung*. Since [this newspaper](#) is frowned upon and even reviled by the mainstream, very little about her various articles can be found today, not even on the Internet. If mentioned by mainstream outlets at all, they are consistently disparaged without much about their contents being discussed.² Revisionist sources are usually silent about her as well. The one exception to this are references to her various papers in Josef Scheidl's self-published seven-volume work *Die Geschichte der Verfemung Deutschlands (History of Germany's Delegitimization, Vienna 1968)*. On page 212-214 of volume 4 titled "*Die Wahrheit über die Millionenvergassung von Juden*" (*The Truth about the Gassing of Millions of Jews*), Scheidl wrote:³

Frau Regina Dahl is a coworker at the NZ (National-Zeitung) and a successful researcher in the area of exposing atrocity lies. [...] In the NZ (No. 35 of Sept. 30, 1966, pp. 3 ff.) she published a paper about the mendacity and perjuriousness of many witnesses in the concentration camp trials. From this revealing article we gather some details about the so-called Sobibor Trial, which started on September 4, 1965, at the Hagen Jury Court. [...]

Right from the start of the preliminary investigations, the prosecution was in close contact with Jewish organizations. Before even the first witness was interviewed, lists of persons suspected to have served at Sobibor had been sent to the Jewish Central Agency. These lists, which contained the military rank and

area of responsibilities of the suspects, were constantly updated during the investigations and supplemented with pertinent photographic material. The lists and photos were meant to be given to the witnesses. It is remarkable that, in a letter sent to the World Jewish Congress, the prosecution encouragingly imparted that it would be essential for the conviction of the defendants as murderers if the witnesses could testify that the defendants had beaten them. This broad hint was subsequently fully successful.

In the following years, German publications of right-wing orientation referred repeatedly to similar methods in other trials. For instance, in 1977 the right-wing newsletter *Unabhängige Nachrichten* (*Independent News*; issue no. 7, July, pp. 9f.) mentioned a similar investigative procedure for the Majdanek trial then under way at Düsseldorf. Wilhelm Stäglich quoted this source,⁴ claiming that this case of manipulating witnesses “was rightfully described as a scandal, and provoked a wide reaction among the general public,” yet a brief article in this obscure newsletter is hardly a wide reaction among the general public. In fact, looking for traces of this reaction today, I could not find any.

Next in line was Wilhelm Stäglich, who in his 1979 book *Der Auschwitz-Mythos* wrote:⁵

I am in possession of a photocopy of a comprehensive letter (No. 24 AR 1/62 [Z]) which the director of the North Rhine-Westphalian Chief Prosecutor’s Central Office for the Investigation of National Socialist Mass Crimes in Concentration Camps in Cologne sent to all potential witnesses in his investigation concerning the concentration camp Sachsenhausen. The whole thing goes on for more than 100 pages and is an instructive example of how the accusations against the SS personnel of Sachsenhausen were “managed.” It offers an excellent instance of the procedures of the Central Office and other departments cooperating with it. In the letter, which was signed by the prosecutor, Dr. Gierlich, it is indicated to the addressee that preliminary investigations of the SS personnel who were stationed at Sachsenhausen were to be conducted “with expert advice by the Sachsenhausen Committee” (!). The addressee is then asked to give information about his experiences “in the sense of this letter” (page 1). Extensive lists of names are enclosed with the letter. Regarding this, on page 4 of this letter it is stated: “The names of the persons about whom I seek information are found in Appendices III, IV, V, and VI. Who of these took part in the crimes committed in Sachsenhausen? Should you know the names of additional SS personnel whom you could accuse of concrete crimes, please give me this information as well...”

It goes on to say on page 5: “In the picture section – page 99ff. – you will find photographs of persons sought; unfortunately pictures of all of them could not be obtained; in part the pictures originate from a time when the defendants were not yet or no longer present in the camp, in part the pictures are recent.”

As if that weren’t enough, on pages 7ff. it is thoroughly explained what kinds of mass crimes are under consideration, so the witness not need trouble himself about that. One need only choose from a selection which contains the following references:

“Murders on the arrival of the first big transports of Jews in 1938.”

“Killing of the Jehova’s Witness August Dickmann, who was shot on the parade ground September 15, 1939.”

“Shooting of 33 Poles on November 9, 1940.

“Shooting of Russian prisoners of war at the execution grounds in autumn 1941.”

“Who took part in the gassing of Russian prisoners in gas wagons?”

“Gassing of prisoners. Who installed the facilities?” etc.

These data were probably compiled by the aforementioned “Sachsenhausen Committee.” It is especially interesting that here the “gassings” resurface. Although the Institut für Zeitgeschichte had established by August 1960 that there had been no “gassings” in the concentration camps of the Old Reich – therefore not in Sachsenhausen – the attorneys at the Central Office evidently still subscribed to this wartime propaganda lie in the years which followed. The preliminary investigations for the Sachsenhausen Trial lasted from 1962 to 1970.

In conclusion, the addressee is informed that only “murder; attempted murder; complicity in and preparation of murder; poisoning with resultant death; knowingly acquiescing in the above-mentioned crimes by superiors” were unaffected under the statute of limitations and could still be prosecuted. Nevertheless, other accusations would be thankfully acknowledged. Chief Prosecutor Dr. Gierlich writes: “It is necessary to clarify instances of mistreatment – even if not in every detail – because one might draw conclusions about states of mind in murder committed in some other circumstances. There is also the possibility that through mention of additional circumstances an instance of mistreatment is revealed as an attempted murder.” (p. 11)

Thus the door is opened for settling personal scores through every conceivable lie. The “state of mind” of the chief prosecuting attorney needs no explanation.

Stäglich’s book, of course, was ordered confiscated and destroyed by the German authorities, so the “problem” of this troublesome footnote no longer exists for the mainstream, at least not in German, nor in Germany.

Dr. Wilhelm Stäglich

Source: <http://www.vho.org>

The fourth reference known to me and referring to a similar case of manipulation stems from the (in)famous German lawyer and right-wing activist Jürgen Rieger, who reported about his own experiences in a small 1982 brochure published by another publication of the right wing, although he did not specify which trial this was referring to.⁶

The last case known to me was mentioned in a small 1991 book published by – again – a publisher of the right about the trial against former Auschwitz guard Gottfried Weise.⁷

All this suggests that the German prosecutorial authorities systematically influenced all potential prosecution witnesses to be heard in trials of alleged violent Nazi crimes.

Considering the reputation imposed upon all these publications, none is quotable by respectable scholars. The only way around that is to actually publish these documents of manipulation on the Internet, free from the intermediation of professionals with reputations to protect.

While I was working on my expert report in 1991/92, Karl Phillip, who at that time gave me logistical support in my research efforts and who also served as a liaison between me and several lawyers involved in the defense of Holocaust “deniers,” told me that one of these lawyers had given him a photocopy of a file which was sent to witnesses during one of these trials. He gladly prepared a photocopy for me. It turned out to be the very document from which Wilhelm Stäglich had quoted in his book and which concerned the trial against the former officials of the Sachsenhausen concentration camp. I myself quoted it in my 1993 paper on “The Value of Testimony and Confessions Concerning the Holocaust.”⁸ However, in late summer 1993 the German police raided my home and temporarily confiscated this document. I did receive it back eventually, but my subsequent odyssey of 18 years prevented me from doing anything with it. I had simply lost track of it. Only after I returned to my family in the U.S. in 2011, did I manage to locate this copy again.

I have now scanned it and [posted it as a PDF file](#). It has 150 pages, although two pages (38, 39) are missing, so the original had 152 pages. The document lists the names of 577 former SS men against whom the German prosecutors were asking for incriminating testimony, and it also contains 497 photos of some of the suspects. One list includes all those former officials who had already been sentenced or were being prosecuted at the time this document was prepared, including the charge and/or judgment rendered of the prosecution.

As indicated at the beginning of this article, feeding potential witnesses information about the case they are supposed to testify about can, and in most cases will, deform their memory, if not actually induce perjured statements they are already inclined to offer. This document proves beyond the shadow of a doubt that it was (and probably still is) the official policy of the German judicial authorities to systematically inform and thus influence all potential witnesses prior to the planned trial about all the “certain” (or self-evident) essentials of what was considered to be “the truth.”

During David Irving’s libel trial against Deborah Lipstadt, he and Robert van Pelt discussed to what degree Holocaust witnesses may have influenced one another by what Irving termed “cross-pollination.”⁹ I suggest instead that this document proves that the German judicial authorities were (and probably still are) involved in a massive campaign of systematically pollinating, planting and cultivating “memories” on a massive scale, thus turning all these procedures, which were based almost exclusively on witness statements, into an indelible blot on the face of the German judicial system.

Notes:

- 1 Online: http://en.wikipedia.org/wiki/Walther_Dahl
- 2 See for instance the article “Der ‘vergessene Prozeß’” in the German weekly *Die Zeit*, on Dec 2, 1966; www.zeit.de/1966/49/der-vergessene-prozess; or Devin O. Pendas, “‘I didn’t know what Auschwitz was’: The Frankfurt Auschwitz Trial and the German Press, 1963-1965,” *Yale Journal of Law & the Humanities*, vol. 12, no. 2, 2000. pp. 397-446; here fn 117, p. 428; <http://digitalcommons.law.yale.edu/yjlh/vol12/iss2/4>
- 3 Page 214f. in the new, 2015 edition (Castle Hill Publishers, Uckfield, UK).
- 4 “West German Justice and So-Called National Socialist Violent Crimes,” *The Journal of Historical Review*, Vol. 2, No. 3, Fall 1981, pp. 247-281, here p. 257.
- 5 In the English edition *Auschwitz: A Judge Looks at the Evidence*, it is footnote 33 of Chapter Four, on p. 303f. in the 2015 edition (Castle Hill Publishers, Uckfield, UK).
- 6 Jürgen Rieger, in: Deutscher Rechtsschutkreis (ed.), *Zur Problematik der Prozesse um “Nationalsozialistische Gewaltverbrechen”*, Schriftenreihe zur Geschichte und Entwicklung des Rechts im politischen Bereich 3, Bochum 1982, p. 16.
- 7 Rüdiger Gerhard (ed.), *Der Fall Gottfried Weise*, Tübingen, Berg 1991, p. 63.
- 8 Published in 1994 in E. Gauss (ed.), *Grundlagen zur Zeitgeschichte*, Grabert, Tübingen, pp. 61-98; fn 149 on p. 77; Engl.: G. Rudolf (ed.), *Dissecting the Holocaust*, 2nd ed., Theses & Dissertations Press, Chicago 2003, pp. 85-131; fn 156 on p. 104.
- 9 See <http://www.hdot.org/en/trial/transcripts/day09/pages106-110.html>; see also Samuel Crowell’s review of van Pelt’s book at http://www.fpp.co.uk/Legal/Penguin/books/Pelt/Crowell_reviews.html.

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